IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10798 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SURESHBHAI @ SURYAPRAKASH @ BITTU @ VITTHAL KISHANLAL KALA

Versus

STATE OF GUJARAT

Appearance:

MR HR PRAJAPATI for Petitioner

MR SAMIR DAVE, AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 07/02/2001

ORAL JUDGEMENT

#. This is another case in the series where the order of the detention of the petitioner appears to have been made with the clear object and purpose so that deliberately lacunas that are left out therein may be good ground for the petitioner to get himself released from the

detention.

#. The learned counsel for the petitioner raised manifold contentions challenging the order dated 19.9.2000 of the respondent - Police Commissioner, Ahmedabad City, Ahmedabad, under which the petitioner was ordered to be detained under the category of `dangerous person' in exercise of powers conferred u/s.3 of the Gujarat Prevention of Antisocial Activities Act, 1985, but as this petition deserves to be allowed only on one ground, I do not consider it to be necessary as well as in the interest of judicial time to refer all those contentions and record finding thereon.

#. It is contended that the copies of the vital documents were not given to the petitioner by the respondent despite of specific demand made by him in his representation dated 5.10.2000 addressed to the Deputy Secretary, Home Department, New Sachivalaya, Gandhinagar. In paragraph-(n) of this petition, the petitioner has taken this specific plea and the factual averments have been made therein in support of this contention made by the learned counsel for the petitioner.

#. Reply to the special civil application has not been filed by respondent and from which also it can be safely inferred that at this stage also, the respondents have made it easy for the petitioner to get himself released from the detention order. They do not want to create any hurdle in the way of the petitioner to get easy sailing in the matter and which is, at the cost of repetition, clearly borne out from the conduct of the respondents, the officers of the impersonal State of Gujarat not to file reply to the special civil application. This petition was admitted on 16.10.2000 and if we go by the order of this court, it is expected from the respondents to file their affidavit-in-reply within time as given out in the order, i.e.. about three weeks time granted but though more than three months have gone, they have not bothered to file reply to the special civil application. The ballistic report is a vital document and a copy of the same has been demanded by the petitioner. It was not given and only on this ground, this petition deserves acceptance and accordingly the same is allowed and the order dated 19.9.2000 passed by the Police Commissioner, Ahmedabad City, Ahmedabad, detaining the petitioner as a `dangerous person' is quashed and set aside and the petitioner - Sureshbhai @ Suryaprakash @ Bittu @ Vitthal Kishanlal Kalal, detenu, at present detained at Jamnagar Jail, Jamnagar, be set at liberty forthwith if he is not required in any other case. Rule is made absolute. The

respondent-State of Gujarat is directed to pay Rs.4,000/as costs of this petition to the petitioner as what this amount has been paid by petitioner to his counsel and the learned counsel admits that this amount has been paid to him. The Chief Secretary, Government of Gujarat, is directed to hold inquiry in the matter and whosoever is found responsible in not filing reply to the special civil application, this amount of cost has to be recovered from that officer. Compliance of this order to be reported to this court.

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(sunil)